

PUBLIC VERSION

BEFORE THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

REBUTTAL TESTIMONY

OF

ARTHUR D. SILVIA

ON BEHALF OF VERIZON NEW ENGLAND INC.,

d/b/a VERIZON RHODE ISLAND

OCTOBER 22, 2002

DOCKET NO. 3445

Rebuttal Testimony

of

Arthur D. Silvia

1 Q. Please state your name, occupation and business address.

2 My name is Arthur D. Silvia. My office is located at 125 High Street, Boston,
3 Massachusetts. My current position is Director for Verizon New England Inc.

4 Q. Have you previously testified in this proceeding?

5 A. Yes. On July 1, 2002 I filed direct testimony on behalf of Verizon Rhode Island
6 (“Verizon RI”) describing the extent of competition in the telecommunications
7 market in Rhode Island.

8 Q. What is the purpose of your rebuttal testimony?

9 A. My testimony responds to the direct testimonies of: (a) Thomas Weiss filed on behalf
10 of The Rhode Island Division of Public Utilities and Carriers on September 25, 2002,
11 (b) Dr. August H. Ankum filed on behalf of Conversent Communications of Rhode
12 Island, LLC on September 20, 2002, and (c) Cindy Z. Schonhaut filed on behalf of
13 Cox Rhode Island Telcom, L.L.C on September 20, 2002. In addition, I provide
14 updated (Rhode Island Competitive Profile) access line data that shows competition
15 in Rhode Island is not in decline as Dr. Ankum and Ms. Schonhaut have suggested in
16 their respective testimonies.

17 **Exogenous Changes**

18 Q. Do you agree with Mr. Weiss’s statement that the exogenous event provisions
19 contained in Verizon RI’s currently effective Price Regulation Successor Plan
20 (PRSP) were justified only because at the time of its adoption the Commission was

1 not “clear” as to the future financial effects of transitioning to a competitive
2 telecommunications market?

3 A. No. The existing exogenous event provisions contained in the PRSP are the product
4 of careful and deliberate action on the Commission’s part. The Commission has
5 recognized from the initial Price Regulation Trial (PRT) to the current PRSP that
6 significant legislative, judicial or administrative events could occur that are beyond
7 the control of Verizon RI, and that are specific to the telecommunications industry.
8 To the extent that such exogenous events have a material impact on the operations of
9 Verizon RI, the Commission established procedures to address the regulatory
10 treatment of the costs (or savings) stemming from such events, so as to provide for a
11 fair and symmetrical treatment of exogenous events. The formation and adoption of
12 these procedures reflect the fact that by their very nature, exogenous events cannot
13 always be known in advance, thus the resulting financial impacts of such events
14 cannot be readily assessed and determined in advance.

15 Q. Does Mr. Weiss propose that the Commission redefine exogenous changes and
16 events, or adopt new provisions for disputes and burden-of-proof as to whether a
17 change is exogenous?

18 A. No. Mr. Weiss recommends that while still subject to the existing \$2.5 million
19 annual cap on revenue increases for exogenous events, that Verizon RI be required to
20 bear the first \$2.0 million of the intrastate revenue effects for exogenous events. In
21 addition, he proposes eliminating the provision in Verizon RI’s proposed Plan that
22 would allow the Company to increase the annual exogenous cap by an amount equal
23 to any increases in state and local taxes. Verizon RI’s proposal continues the
24 exogenous treatment for potential increases in state and local taxes that has existed
25 for well over a decade. In these uncertain financial times in which state and local

1 budget crises are arising every day, Verizon RI is absolutely justified in seeking
2 protection in the event that a very significant tax or surcharge is levied upon its
3 business.

4 Q. Are Mr. Weiss's recommendations consistent with what should occur in a
5 competitive market, such as the one that exists in the State of Rhode Island?

6 A. No. In a competitive industry these costs would alter the average cost of the industry
7 and would directly affect the average price charged in the industry. In other words,
8 all carriers would flow these costs through to the ratepayer. If adopted, Mr. Weiss'
9 recommendation would be a significant step backward from the current exogenous
10 rules. In particular, Mr. Weiss's proposal would impose even further restrictions on
11 Verizon RI's ability to pass through these costs than Verizon RI already faces. Other
12 carriers in Rhode Island would remain free to pass such costs through. In short, Mr.
13 Weiss's proposal would impose an unnecessary further restriction on Verizon RI's
14 ability to recover costs arising from exogenous events and compromise Verizon RI's
15 ability to compete on a level playing field in the competitive Rhode Island market.

16 **Facilities-Based Competition**

17 Q. Do you agree with Dr. Ankum's conclusion that the level of UNE-P development in
18 Rhode Island is an indication of "feeble" competition?

19 A. No. The mode of entry a competitor selects is a function of each competitor's
20 business plan. While competitors may choose between a number of methods to
21 deliver service to its customers, including Resale, UNE-P or Facilities-Based
22 methods, it is the overall use of all three that is an indicator of the strength of
23 competition in the marketplace. While Dr. Ankum points to the level of UNE-P use,
24 he neglects to point out the very high level of full facility-based competition in
25 Rhode Island which makes this state somewhat unique. In its January 2002

1 Evaluation, the Antitrust Division of the Department of Justice (DOJ) noted at pages
2 10 and 11,

3 The wide-spread availability of facilities-based competition, which is
4 the type of competitive entry best able to ensure healthy ongoing
5 competition and deregulation, counts heavily in favor of granting
6 Verizon's application.
7

8 Most CLEC service to residential customers in Rhode Island is
9 facilities-based, including that provided over the cable television
10 facilities of Cox Communications. Cox's cable telephony service is
11 available to between 75 and 95 percent of homes in the state.
12

13 CLECs serve approximately 19.3 percent of all business lines using
14 primarily their own fiber optic networks that are either connected
15 directly to the customer premises or connected through loops leased
16 from Verizon.
17

18 Based on the prevalence of facilities-based competition and the results of the
19 Competitive Profile filed with my direct testimony and updated in this document, I
20 believe that competition is thriving in Rhode Island, without regard to the level of
21 UNE-P development.

22 **Competition Continues to Increase in Rhode Island**

23 Q. What are Dr. Ankum's concerns with regard to the level of competition in Rhode
24 Island?

25 A. Both Dr. Ankum and Ms. Schonhaut imply that the financial turmoil that exists in
26 the national arena today indicates that competition is likely to falter and the progress
27 that competitors have made in the market is not likely to continue.

28 This argument is not supported by the facts. The facts show that in spite of the
29 economic turmoil over the last two years, competition in Rhode Island has continued
30 to flourish. The following data, which provides an update of the February 2002
31 competitive data that I presented in my direct testimony, shows that over the last six

1 months alone, competitors have significantly increased their penetration of the
 2 Rhode Island market.

3 **PROPRIETARY Table 1**

(Verizon Rhode Island- August 2002 Data)RI Access lines in Service	<u>Residence</u>		<u>Business</u>		<u>Total</u>	
	<u>Feb. 02</u>	<u>Aug. 02</u>	<u>Feb. 02</u>	<u>Aug. 02</u>	<u>Feb. 02</u>	<u>Aug. 02</u>
VZ Retail Lines						
Competitive Lines:						
-Resold Lines						
-UNE Platforms						
-E911 Listings						
Competitive Lines as a Percent of Total Lines (Feb. 02 data)						
Competitive Lines as a Percent of Total Lines (Aug. 02 data)						

4 The August 2002 data shows that since February of 2002, there has been an increase
 5 in competitive market penetration of over **PROPRIETARY BEGINS** ****
 6 **PROPRIETARY ENDS** in both the Residence and Business markets. Competitive
 7 lines as a percent of total lines has increased from **PROPRIETARY BEGINS ****
 8 **** PROPRIETARY ENDS.** It is important to note that this data should be
 9 considered as a conservative estimate in that it does not attempt to estimate the
 10 additional competitive inroads that are being made by wireless carriers in these
 11 markets.

12 Q. Ms. Schonhaut characterizes local competition in Rhode Island as “broad, but not
 13 deep.” Further, she states that crucial market segments, such as local business
 14 services, do not demonstrate sufficiently deep and sustainable competitive conditions
 15 (Schonhaut testimony at 20). Please respond to this characterization.

1 A. Ms. Schonhaut's characterization is not supported by the facts. Both the competitive
2 profile submitted in my direct testimony as well as the updated competitive
3 information presented above demonstrate that local competition in Rhode Island is
4 widespread and vibrant in both the residential and business markets. In addition,
5 further support of the widespread nature of local competition in Rhode Island can be
6 found in the Federal Communications Commission's July 23, 2002, report on the
7 status of local telephone service competition. That document reports that CLECs'
8 percentage share of end user access lines in the state of Rhode Island was second
9 nationally only to New York in terms of the percentage magnitude. Furthermore,
10 CLECs with under 10,000 lines in a state were not required to report, a fact that more
11 than likely results in an understatement of the percentage of CLEC lines.

12 With respect to the current level of competition in the local business services market,
13 competitors are currently serving nearly **PROPRIETARY BEGINS** ** of the
14 business access lines in the State, which represents an annual growth rate of **
15 **PROPRIETARY ENDS** since February of 2002. Ms. Schonhaut's speculation
16 regarding the lack of sustainable competitive conditions for local business services in
17 Rhode Island is not supported by the numbers.

18 Q. Would you please comment on Dr. Ankum's assertion that Verizon RI's competitive
19 profile data should be treated with skepticism.

20 A. Dr. Ankum notes that the use of similar data in Massachusetts encountered
21 significant opposition from intervenors. Dr. Ankum's claim is correct but
22 misleading. In fact, Dr. Ankum filed testimony on behalf of one of the intervenors
23 who questioned the use of E911 data in the Massachusetts case (see MA DTE 01-31,
24 testimony of August Ankum dated August 24, 2001). Dr. Ankum fails to mention
25 that after full litigation of the issue, the Massachusetts Department of

1 Telecommunications and Energy found that the E911 data provided a reasonable
2 estimate of CLEC facilities-based competitive entry. (D.T.E. Docket 01-31, Phase I
3 Order dated May 8, 2002 p.84).

4 Dr. Ankum's concerns are not well founded, and the Commission should find that
5 the E911 data provides a reasonable estimate of CLEC competition in Rhode Island.

6

7 **Conclusion**

8 Q. Does that conclude your rebuttal testimony?

9 A. Yes it does.